

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CLAYTON SMITH, ET AL.	§	
	§	
v.	§	CIVIL ACTION NO. 4:09-CV-658-Y
	§	
TARRANT COUNTY	§	
COLLEGE DISTRICT, ET AL.	§	

ORDER GRANTING CONTINUANCE AND
CONDITIONALLY GRANTING DEMAND FOR JURY TRIAL

Before the Court is the Motion to Continue (doc. #25) and the Notice Why a Trial on the Merits Cannot be Had on November 16, 2009 (doc. #27), filed by defendant Tarrant County College District ("TCC") and Erma Hadley. In these documents, Defendants respond to the portion of the order (doc. #14) setting a hearing on Plaintiffs' request for injunctive relief that required the parties to inform the Court as to whether the merits of Plaintiffs' claims should be consolidated with the hearing. Defendants state that they do not oppose such consolidation. However, Defendants have demanded that the trial on the merits be to a jury. Additionally, Defendants state that they need more time to prepare their case. They seek an extension of at least sixty (60) days and have agreed to adhere to the terms of the temporary restraining order (doc. #14) until the trial is concluded.

Plaintiffs Clayton Smith and John Schwertz Jr. have responded to the motion to continue. They state that they have agreed to a continuance of the hearing, subject to the Defendants' agreement to maintain the terms of the temporary restraining order in place.

Smith and Schwertz further state that they are not opposed to consolidation of the merits with the injunction hearing or to a sixty-day continuance, but oppose any continuance of greater length.

After review of the motion for continuance, and in light of the parties' agreements, the Court GRANTS the motion. Accordingly, a consolidated hearing addressing both Plaintiffs' request for preliminary injunctive relief and the merits of their claims for permanent injunctive and other relief will be held on January 12, 2010, at 10:00 a.m. in the second-floor district courtroom, Eldon B. Mahon United States Courthouse, Fort Worth, Texas. Additionally, the Court CONDITIONALLY GRANTS Defendants' request for a jury. However, given that the focus of Plaintiffs' claims is on TCC's permit system and that evidence of the relevant portions of TCC policy and regulations regarding the system is already before the Court, it appears there may be no issues of fact to be resolved. Thus, the Court ORDERS that Defendants file a notice, no later than January 4, 2010, identifying genuine issues of material fact that warrant a jury. In the event that Defendants fail to file such motion, or the motion fails to identify genuine issues of material fact necessitating a jury, the hearing and trial on the merits will be to the Court.

It is further ORDERED that Erma Johnson Hadley and Tarrant County College District, its officials, employees, and agents, be

and they are hereby ENJOINED from prohibiting Clayton Smith, John Schwertz Jr., and any other Tarrant County College District student from wearing empty holsters, wearing t-shirts depicting empty holsters, discussing handgun regulations, and distributing pamphlets on handgun regulation in traditional public-forum areas including, but not limited to, public streets, sidewalks, and common or park areas until the hearing on Plaintiffs' request for preliminary injunctive relief and the merits of their claims for permanent injunctive and other relief has been conducted and a judgment disposing of their claims has been entered. See Fed. R. Civ. P. 65(b)(2) (authorizing extension of temporary restraining order based on adverse party's consent).

Finally, the Court notes that Defendants' filings continue to reflect the cause number of this case as "Civil Action No. 4:09-CV-658-A." Because this case is now pending before Judge Means, the correct cause number is "Civil Action No. 4:09-CV-658-Y." Defendants' future filings should be styled accordingly.

SIGNED November 12, 2009.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

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